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FISCAL IMPACT STATEMENT

LS 6796

BILL NUMBER: HB 1144

NOTE PREPARED: Dec 30, 2005

BILL AMENDED:

SUBJECT: Injuries to or Death of an Employee.

FIRST AUTHOR: Rep. Stevenson

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

Criminal Penalties: It provides that certain employers or their agents that cause:

- (1) serious bodily injury to an employee as a result of a reckless violation of certain administrative rules commit a Class A misdemeanor;
- (2) serious bodily injury to an employee as a result of a knowing or intentional violation of certain administrative rules commit a Class A misdemeanor;
- (3) the death of an employee as a result of a reckless violation of certain administrative rules commit corporate manslaughter, a Class D felony; and
- (4) the death of an employee as a result of a knowing or intentional violation of certain administrative rules commit corporate manslaughter, a Class C felony.

Civil Action: It authorizes a private right of action for the failure to warn of certain conditions under the state occupational safety and health act.

Conformance: It makes conforming amendments.

Effective Date: July 1, 2006.

Explanation of State Expenditures: *Criminal Penalties:* Under current law, most violations of the Indiana Occupational Safety and Health Act (IOSHA) result in a Class B misdemeanor. The requirements of the chapter are directed to the employer. Under the bill, violations of the statute would be enhanced to a Class A

misdemeanor, a Class D felony, or a Class C felony based on the actions of the employer or the employer's agent, and the degree of harm to the employee.

State expenditures could increase if an offender is incarcerated in a state prison rather than in a local jail. Depend upon mitigating and aggravating circumstances, a Class D felony is punishable by a prison term ranging between six months to three years or reduction to Class A misdemeanor. A Class C felony is punishable by a prison term ranging from two to eight years depending upon mitigating and aggravating circumstances.

The average expenditure to house an adult offender was \$20,979 in FY 2005. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost per offender for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months, and for all Class C felony offenders is approximately two years.

Note: The criminal penalties under the bill would not apply to the state or its political subdivisions.

Explanation of State Revenues: *Criminal Penalties:* Revenue to the Common School Fund may increase if a person is sentenced for a Class A misdemeanor rather than for a Class B misdemeanor. The maximum fine for a Class B misdemeanor is \$1,000, while the maximum fine for a Class A misdemeanor is \$5,000. For felony offense, more revenue to the Common School Fund could be collected if a larger criminal fine is assessed by the sentencing court. The maximum fine for a Class B misdemeanor is \$1,000, while the maximum fine for a Class C or a Class D felony is \$10,000.

Court fees for both misdemeanors and felonies are \$120.

Civil Action: An employer is required to comply with occupational health and safety standards and keep employees informed of their protections and obligations, as well as the hazards of the workplace and suitable precautions, and the relevant symptoms and emergency treatment for such hazards. Under the bill, an employee who is harmed by the failure of the employer or the employer's agent to inform, may file a civil action for relief. If additional civil actions occur, revenue to the state General Fund may increase if court fees are collected. A civil filing fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

Explanation of Local Expenditures: *Criminal Penalties:* For the Class D felony, if an offender is sentenced to state prison rather than to a county jail, the costs to the county may be reduced. Additionally, if more defendants are detained in county jails prior to their court hearings for felony offenses, local expenditures for jail operations may increase.

For the Class A misdemeanors, costs to local governments could increase because the maximum term of imprisonment for a Class B misdemeanor is up to 180 days, while the maximum term for a Class A misdemeanor is up to one year. The average daily cost of housing a prisoner is approximately \$44.

Explanation of Local Revenues: *Criminal Penalties:* Court fees for both misdemeanors and felonies are \$120.

Civil Action: If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 filing fee that is assessed in a court of record.

Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts; local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association.

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